

National News

KUJ contests decision to register faction

By John Osoro

KENYA Union of Journalists (KUJ) yesterday moved to court to challenge the decision of the Registrar of Trade Union to recognise the names of the rival group.

Through lawyer Alfred Nyandieka, the union told the court that the registration of Eric Orina and others as the union officials was unlawful.

Under its former secretary general, Ezekiel Mutua, the lawyer said KUJ was given 90 days to hold its elections, which were yet to be held.

Justice Roseline Wendo heard that the union was in the process of organising the elections under the directions of Mutua who has since joined the Government as the Director of Information and Public Relations.

Nyandieka said the Registrar of Trade Unions acted without consulting whether the election ordered by the court was conducted within the prescribed time.

He said the alleged polls were requisitioned for by Jared Akama Onyari, who was not only journalist, but a member of the union.

The lawyer held the findings of Justice Mathews Emukule, which ordered the union to organise for the elections to be presided over by an official from the ministry of Labour.

He said the registrar recognised the said officials without seeking the minutes and resolution passed by the union members to hold the said elections.

Nyandieka submitted there was no evidence that the alleged elections that led to the registration of the said officials was held at the 680 Hotel as claimed. The election of the KUJ can only be called by the secretary-general as provided for by the union constitution, the court heard.

According to the High Court ruling, KUJ was supposed to hold elections in May this year. Justice Wendo, however, directed the applicant to serve the application on the registrar and fixed the hearing for November 8, 2007.

By John Osoro

THE High Court yesterday ordered Kenya Revenue Authority (KRA) to return all documents it seized from four companies trading in Mombasa and Nairobi over the alleged non payment of Sh171 million tax.

KRA was further ordered to return the document within a period of seven days and also file its reply to the application for judicial review brought by Unulite Cables and Retreading Limited on behalf of other two sister companies.

Judicial review boss Justice Joseph Nyamu said the applicants have established an arguable case which should be heard *inter*

Wako terminates case against bomb suspect

By Richard Munguti

ATTORNEY General Amos Wako yesterday terminated a case commenced against a suspect arrested after the bomb blast near the Ambassador Hotel in which two people died and 33 others seriously injured on June 12, 2007.

Senior Principal Magistrate Ms Mary Murage freed Ahmed Hirsi Farah after the A-G entered a *nolle prosequi*.

Murage, however, directed that the file be passed on to the A-G to peruse and scrutinise sentiments expressed by defence lawyer, Ahmed Nassir Abdullahi.

Abdullahi said the case filed against Farah was a cover-up by the police. Farah was charged with an immigration offence whereas he was a Kenyan.

Abdullahi lashed out at the con-

duct of the police saying, Farah was the first Kenyan to be charged for being in his motherland without a visa.

He said that although he had no powers to oppose the *nolle prosequi* entered by the A-G on the case against his client, it was sad and sickening that the police charged him to cover-up the bombing.

"He should not have been charged in the first place. How can a Kenyan be charged for failing to have a visa while in his motherland. I am disgusted that precious judicial time has been wasted. The charges were just filed by the police to save their face as the arrest and arraignment of the accused was quite irregular," Abdullahi said.

The lawyer stated the case had been pending for four months only to be terminated before those who perpetrated the arrest could be sub-

jected to severe cross-examination.

The *nolle prosequi* dated September 12, 2007 and signed by a Senior Principal State Counsel, Vincent Wahoro, was introduced to the court by Chief Inspector Joseph Musyoka. He stated the A-G did not wish to pursue the case against Farah.

Musyoka urged the magistrate to discharge the accused.

In her brief ruling Murage allowed the application to terminate the case then discharged the accused. She said the law requires that the court accepts the *nolle prosequi*.

She, however, directed Abdullahi to liaise with the police to claim back items he stated were taken away from his client.

Farah was charged that on March 11, 1998 at the Immigration Office Nairobi, he made a false declaration so that he could procure a passport.



THE LONG ARM OF THE LAW. This man who was apprehended by members of the public for trying to steal a motorbike in the city is escorted to a police station by police officers.

—PHOTO/KANIARU NDIRANGU

Prosecution wants robbery suspect hanged

By Alphonse Mung'au

A KIBERA court was yesterday urged to sentence to death a violent robbery suspect who allegedly demanded a Sh10 million ransom from two medical doctors he had abducted.

Special prosecutor lawyer, Cecil Miller, told Principal Magistrate Helen Wasilwa that the prosecution had proved beyond reasonable doubt that Stephen Mungu Mwangi violently robbed Dr Karim Mohammed and his brother Dr Amin Mohammed.

Miller who was appointed by the Attorney-General, Amos Wako, to prosecute the case said that the accused had positively been identified by witnesses as the one who attacked the complainants at their clinic while armed with a gun.

He said the fact that the accused pose as a patient before launching his attack on the two medical doctors was a proof that he had ill-intentions.

The lawyer said the two doctors suffered mental trauma and anguish while in the hands of the accused who terrorised them for many hours. Miller who was making his final submissions in the case urged the court to disregard the defence evidence saying it was not factual.

Mwangi is charged that on February 5, 2001, at Aculaser Clinic in Parklands, Nairobi, while armed with dangerous weapons namely a pistol and a knife, violently robbed the two doctors of cash amounting to Sh250,000 and demanded Sh10 million more to spare their lives.

Miller told the court that the accused engaged the police officers in a fierce shoot-out by the time of his arrest at the scene.

He submitted that the accused was booked as a patient after paying Sh 1,000 as consultancy fees upon which he appended his signature.

Kanyotu case referred to CJ

By Richard Munguti

A CASE filed against the former Director of Intelligence, James Kanyotu by the Kenya Anti-Corruption Commission (KACC) has been referred to the Chief Justice Evan Gicheru for directions.

Kanyotu challenged a criminal case filed against him by KACC after refusing to furnish the anti-graft body with a list of his property.

Justice Nyamu said the issues raised by the former spy master are serious and need to be determined by more than one judge.

Kanyotu and others have been charged before Makadara Chief Magistrate Ms Margaret Wachira for declining to supply KACC with a list of their property obtained between 1991 and 2002.

However, the suspects have obtained orders blocking the magistrate court from trying them saying the notice KACC relied upon is unconstitutional.

Court orders KRA to return seized documents

By John Osoro

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parties. The judge, however, set November 11 as the mentioning date to confirm compliance of the court's orders.

KRA issued a notice dated May 9, demanding a total of Sh171,328,249 from the companies saying they had alleged short levied income tax which was objected to by the aggrieved parties.

The applicant through the lawyer Alfred Nyandieka said that KRA was demanding a further Sh150 million as VAT and corporate tax, which the applicant declined to pay, but instead requested to be supplied with the document in order to be able explain its tax returns.

KRA seized the applicants'

computers and files on September 26 after the applicant refused to give its books of accounts, purchase invoices, import documents, VAT returns, stock records, creditors and debtors lists as at the end of each accounting period and copies of audited accounts among other documents.

Nyandieka said KRA refused to accept photocopies of the documents and instead ejected the applicant's staff from their offices and premises before taking the said equipment and documents.

The applicant challenged KRA over the action before a tribunal, which has not resolved the dispute for reasons that the documents taken away were required to be pro-

duced before it in order to arrive to any decision.

"The company is totally unable to trade or conduct its business due to the seizure of files, computers containing information relating to accounting and the action has halted and caused financial loss to the applicant," the lawyer said.

The lawyer said the respondent's action has incapacitated the applicant's as there were no details of debtors, goods, supplies, customers or any other information of the plaintiff's trading to enable it operate.

The alleged tax relate between the year 2001 to 2006 and its one year since the document were taken away.